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Attorneys for Defendants

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

PING JIANG,)	No. C 07-3909 CRB
)	
Plaintiff,)	
)	
v.)	
)	
MICHAEL CHERTOFF, Secretary,)	JOINT CASE MANAGEMENT
Department of Homeland Security;)	STATEMENT
ROBERT S. MUELLER, Director of the)	
Federal Bureau of Investigation,)	Date: October 12, 2007
)	Time: 8:30 a.m.
Defendants.)	

1. Jurisdiction and Service: There are no issues concerning personal jurisdiction. Plaintiffs brought this Complaint under 28 U.S.C. §§ 1331 and 1361, and under the Administrative Procedure Act. All parties have been served.

2. Facts: On November 23, 2004, Plaintiff filed a Form I-485 application for adjustment of status to Legal Permanent Resident with USCIS, based on his employment. On July 30, 2007, Plaintiff filed this Complaint for a Writ in the Nature of Mandamus, alleging that Defendants are unlawfully withholding or unreasonably delaying action on Plaintiff's I-485 application, and asking the Court to compel USCIS to adjudicate his application for adjustment of status. Plaintiff's name check is still pending with the Federal Bureau of Investigation.

3. Legal Issues: The principal legal issue the parties dispute is whether the Court has

jurisdiction to compel agency action in this case and if so, whether a writ a mandamus should issue to remedy Defendants' alleged unreasonable delay in adjudicating Plaintiff's application.

4. Motions: Plaintiff filed a motion for summary judgment on September 7, 2007, noticing October 12, 2007 for a hearing. Pursuant to Fed. R. Civ. P. 56(f), Defendants moved the Court to refuse the motion or extend the hearing date. On September 20, 2007, the Court stayed proceedings on Plaintiff's motion, and scheduled the initial case management conference for October 12, 2007.

5. Amendment of Pleadings: None.

6. Evidence Preservation: None.

7. Disclosures: The parties agree that this Court's review will be confined to the administrative record and therefore this proceeding is exempt from the initial disclosure requirements under Fed. R. Civ. P. 26.

8. Discovery: There has been no discovery to date and the parties believe this matter can be resolved without discovery. No experts will be designated.

9. Class Actions: Not applicable.

10. Related Cases: None.

11. Relief: Plaintiff asks the Court to direct the agency to adjudicate his adjustment of status application and asks for an award of attorneys' fees. This case does not involve damages.

12. Settlement and ADR: The parties intend to file a Joint Request to Be Exempt From Formal ADR on or before October 19, 2007.

13. Consent to Magistrate Judge for All Purposes: Plaintiff does not consent to assignment of this case to a United States Magistrate Judge.

14. Other References: None.

15. Narrowing of Issues: None.

16. Expedited Schedule: The parties believe this matter can be solved through the motions.

17. Scheduling: There is currently no hearing date set on Plaintiff's Motion for Summary Judgment. The parties suggest the following dates:

Last day for Defendants to oppose: November 2, 2007

Last day for Plaintiff to reply: November 9, 2007

1 The parties believe this action may be resolved on the papers, and request the Court to take the
2 matter under submission without oral argument. Should the Court prefer oral argument, the parties
3 suggest the following date: November 30, 2007, at 10:00 a.m.

4 18. Trial: The parties believe the matter can be resolved through the motions for summary
5 judgment.

6 19. Disclosure of Non-party Interested Entities or Persons: None.

7 20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this
8 matter: None.

9 Dated: October 2, 2007

Respectfully submitted,

10 SCOTT N. SCHOOLS
11 United States Attorney

12 /s/
13 MELANIE L. PROCTOR¹
14 Assistant United States Attorney
Attorneys for Defendants

15 Dated: October 2, 2007

16 /s/
17 JUSTIN WANG
Attorney for Plaintiffs

18 **CASE MANAGEMENT ORDER**

19 The Joint Case Management Statement and Proposed Order are hereby adopted by the Court
20 as the Case Management Order for the case, and the parties are ordered to comply with this Order.

21 Dated:

22 CHARLES R. BREYER
23 United States District Judge

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25
26
27
28 ¹I, Melanie L. Proctor, hereby attest that I have on file all holograph signatures for any
signatures indicated by a “conformed” signature (/S/) within this efiled document.